

AGENDA
CITY COUNCIL SPECIAL MEETING
Thursday, November 19, 2020
9:00 AM

The regular meeting of the City Council Special Meeting will be held on November 19, 2020 at 9:00
AM in the Council Chambers
455 N. Main Street, Wichita, KS 67202.

OPENING OF SPECIAL MEETING

Call to Order

Reading of the Call for the Meeting by the City Clerk

Consideration of the Business in the Order Embraced in the Call for the Meeting

IX. COUNCIL MEMBER AGENDA

1. Resolution Allowing Enforcement of Sedgwick County Resolution 154-2020 in the City of Wichita and Government Enforcement Services Agreement between Sedgwick County, Kansas and the City of Wichita.

RECOMMENDED ACTION: Adopt the resolution, approve the agreement and authorize all necessary signatures.

[Agenda Report No. IX-1.docx](#)

[County - City Health Order Enforcement Agreement.docx](#)

[Resolution 20-369.docx](#)

[Sedgwick County Resolution](#)

[Sedgwick County Health Order](#)

ADJOURNMENT

**City of Wichita
City Council Meeting
November 19, 2020**

TO: Mayor and City Council Members

SUBJECT: Resolution Allowing Enforcement of Sedgwick County Resolution 154-2020 in the City of Wichita and Government Enforcement Services Agreement between Sedgwick County, Kansas and the City of Wichita

INITIATED BY: City Manager's Office

AGENDA: City Council

Recommendation: Adopt the resolution, approve agreement and authorize all necessary signatures.

Background: On November 10, 2020 in response to the spread of COVID-19, a communicable virus, the Board of Sedgwick County Commissioners adopted Sedgwick County Resolution No. 154-2020, which made violation of an order issued by the Sedgwick County Local Health Officer a violation of the Sedgwick County Code.

On November 13, 2020, the Sedgwick County Local Health Officer issued an Emergency Public Health Order, effective November 14 through December 31, 2020, which requires:

- Individuals wear masks or face coverings in most public spaces, with certain exceptions;
- Businesses and organizations make reasonable efforts to inform members of the public as to the applicable mask or other face covering requirements and require all employees, customers, visitors, members or members of the public to wear a mask or face covering, with certain exceptions;
- Individuals within a public space maintain 6 feet of social distancing, with certain exceptions;
- Mass gatherings are limited to 100 individuals or 50 percent of the capacity permitted by the applicable fire code for that distinct space, whichever is less, with certain exceptions;
- Entertainment venues with capacities in excess of 2,000 people may not host events unless the Local Health Officer has approved a written plan from the venue subsequent to the November 13, 2020 order; and
- Certain other provisions apply to certain businesses and organizations

The Sedgwick County Code is enforceable by code enforcement officers in the unincorporated area of Sedgwick County. Sedgwick County Resolution No. 154-2020 also allows for enforcement in any cities within Sedgwick County whose governing bodies have consented to such resolution applying within their city' limits and that have entered into agreements with Sedgwick County providing for enforcement within their city limits.

Analysis: The attached resolution allows the City of Wichita to consent to the application and enforcement of Sedgwick County Resolution No. 154-2020 within its corporate city limits and authorizes the City to enter into the Government Enforcement Services Agreement with Sedgwick County.

The Government Enforcement Services Agreement provides for the City to retain its Home Rule authority under the Kansas Constitution while also authorizing enforcement of the Health Orders by Sedgwick County Code Enforcement Officers. The City agrees that violations of the Health Order are to be prosecuted in Sedgwick County Court. All fines and costs collected as a result of the prosecution of Health Order

violations are to be retained by Sedgwick County. The City of Wichita agrees to provide assistance for the prosecution of violations by assisting with reporting, investigating and testifying as to any noncompliance of the order within the City's corporate city limits. The City also agrees to hold the County harmless for any damages caused by Sedgwick County employees in enforcement of the order.

Financial Considerations: None.

Legal Considerations: The Law Department has drafted the proposed resolution and reviewed the Enforcement Services Agreement. The documents are approved as to form.

Recommendation/Action: It is recommended that the City Council adopt the resolution, approve the agreement and authorize all necessary signatures.

Attachments: Resolution and Government Enforcement Services Agreement; Sedgwick County Resolution No. 154-2020; November 13, 2020 Emergency Public Health Order of the Sedgwick County Local Health Officer

**GOVERNMENT ENFORCEMENT SERVICES AGREEMENT
FOR SEDGWICK COUNTY HEALTH OFFICER ORDERS**

by and between:

**SEDGWICK COUNTY, KANSAS
and**

THE CITY OF WICHITA, KANSAS

This Agreement made and entered into this 18th day of November 2020, by and between Sedgwick County, Kansas (“County”) and the City of Wichita, a municipal corporation (“City”).

WITNESSETH:

WHEREAS, County and City are desirous of protecting the health and safety of their citizens; and

WHEREAS, the Local Health Officer is appointed by Sedgwick County pursuant to K.S.A. 65-201 and, is directed and authorized by a number of statutes to take action to prevent the spread of any infectious, contagious, or communicable disease; and

WHEREAS, in furtherance of this objective, the Sedgwick County Local Health Officer may issue orders and such orders may also be amended by the Board of County Commissioners (such orders and amended orders collectively referred to as “Health Orders”); and

WHEREAS, County adopted Resolution No. 154-2020 on November 10, 2020, establishing noncompliance with a Health Order, or a Health Order amended by the Board of County Commissioners pursuant to K.S.A. 65-201 or K.S.A. 65-202, as a violation punishable under the Sedgwick County Code; and

WHEREAS, pursuant to K.S.A. 19-101d, the Board of County Commissioners has the power to enforce all resolutions passed pursuant to county home rule powers. Noncompliance with Health Orders may be prosecuted pursuant to Sec. 8-1, et seq., of the Sedgwick County Code; and

WHEREAS, Resolution No. 154-2020 is effective within all of the unincorporated areas of Sedgwick County, Kansas, and any cities whose governing bodies have agreed to contract with the County for such services; and

WHEREAS, County and City are authorized to enter into an agreement for services pursuant to K.S.A. 12-2908, and this agreement shall not be regarded as an interlocal agreement under the provisions of K.S.A. 12-2901, et seq.; and

WHEREAS, County and City deem it in the interest of public health and safety to enforce Resolution No. 154-2020 within the corporate city limits of City.

NOW, THEREFORE, in consideration of the mutual promises and covenants recited herein, the parties do agree as follows:

1. The County shall provide enforcement of Health Orders within the city limits of City, pursuant to Resolution No. 154-2020.
2. All expenses necessary to the operation of said enforcement shall be paid and provided for by the County. Notwithstanding the foregoing, nothing in this Agreement shall be construed so as to require County to pay for any of City's expenses incurred during any investigation, prosecution, or assistance in enforcement of the Health Orders.
3. The County and City shall each designate a liaison as the point of contact under this Agreement.
4. By entering into this Agreement, the governing body of the City has consented to the County exercising local legislation and administration, regarding the enforcement of Health Orders within the corporate limits of the City, such that this Agreement does not infringe upon the City's home rule powers, pursuant to Article 12, Section 5 of the Kansas Constitution and K.S.A. 19-101a(4).
5. The City's governing body is required to take formal action to adopt and incorporate Resolution No. 154-2020 within the City's corporate boundaries.
6. The City consents to the County's jurisdiction to prosecute violations of the Health Orders that occur within the City's corporate boundaries in the Sedgwick County Court, pursuant to Sec. 8-1, et seq., of the Sedgwick County Code. The City shall defer all prosecutorial decisions to the County and fines collected as a result of said prosecutorial efforts shall be retained by the County. The City shall make no claim or demand for any portion of any fines collected by the County as a result of enforcement activity within the corporate boundaries of the City.
7. The City agrees to aid County in reporting, investigating, and testifying as to the noncompliance of Health Orders. Prior to County filing any cases for alleged violations occurring within City's city limits, City shall provide the designated liaison with any evidence and reports procured or prepared in response to the alleged violations. At such time, County shall be permitted to use and preserve the evidence and reports pursuant to County policies and discretion. In recognition of the varying circumstances that may occur on these matters, the City and County may enter into separate related agreements or memoranda of understanding. Also, the City and County may confer to arrive at other informal written or unwritten approaches to determine processes to coordinate with one another to effectuate this Agreement.

8. The following terms and conditions shall cover how the parties will handle records matters that are likely to arise within this Agreement:
- A. City shall be responsible for responding to Kansas Open Records Act (“KORA”) requests received by City. County shall be responsible for responding to KORA requests received by County.
 - B. If the County files a uniform complaint and notice to appear in County Court and a defendant or a defendant’s legal counsel completes a discovery request, then County is ultimately responsible for completing the discovery request response, but shall require assistance from City to ensure that all documents responsive to the discovery request could be provided in a timely fashion. County would gather any documents County would possess that may be responsive to the request pursuant to state law, which may include but not be limited to records generated by City. In addition, County would also contact City to request that City provide County any and all records that may be responsive to the discovery request, which would also include any potentially exculpatory evidence. City would expeditiously locate such records and would not unreasonably withhold any such records, but would instead provide the documents as soon as practicable. County would then deliver the records responsive to the discovery request to the defendant or the defendant’s legal counsel.
9. Either party to this Agreement shall have the right to terminate this Agreement upon notice to the other as set forth hereinafter. Written notice of termination issued on lawful authority of the terminating party shall be given in writing and termination shall become effective upon the non-terminating party’s receipt of such notice of termination. Notice shall be sent to:

COUNTY:

Sedgwick County
Attn: Sedgwick County Health
Director
1900 E. 9th Street North
Wichita, KS 67214

and

County Counselor's Office
Attn: Contract Notification
Sedgwick County Courthouse
525 N. Main, Suite #359
Wichita, KS 67203

CITY:

City Manager’s Office
Attn: Robert Layton, City Manager
455 N. Main
Wichita KS 67202

and

Law Department
Attn: Contract Notification
455 N. Main
Wichita KS 67202

10. To the fullest extent of the law, the City shall defend, indemnify and hold harmless the County and its elected and appointed officials, officers, managers, members, employees and agents, from any and all claims brought by any third-party person or entity whatsoever, arising from any act, error, or omission of City in connection with City's performance of this Agreement or any other agreements between the City and the County entered into by reason of this Agreement. City shall defend, indemnify and hold harmless County and its elected and appointed officials, officers, managers, members, employees and agents, with respect to any third-party claim arising, or alleged to have arisen from negligence, and/or willful, wanton or reckless acts or omissions of City, its subcontractors, agents, servants, officers, or employees and any and all losses or liabilities resulting from any such claims, including, but not limited to, damage awards, costs, and reasonable attorney's fees.
11. To the fullest extent of the law, the County shall defend, indemnify and hold harmless the City and its elected and appointed officials, officers, managers, members, employees and agents, from any and all claims brought by any third-party person or entity whatsoever, arising from any act, error, or omission of County in connection with County's performance of this Agreement or any other agreements between the City and the County entered into by reason of this Agreement. County shall defend, indemnify and hold harmless City and its elected and appointed officials, officers, managers, members, employees and agents, with respect to any third-party claim arising, or alleged to have arisen from negligence, and/or willful, wanton or reckless acts or omissions of County, its subcontractors, agents, servants, officers, or employees and any and all losses or liabilities resulting from any such claims, including, but not limited to, damage awards, costs, and reasonable attorney's fees.
12. The right of the County to enter into this Agreement is subject to the provisions of the cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

13. This Agreement contains the entire agreement between the parties relating to the subject matter hereto. No amendment, waiver or modification of this Agreement shall be effective unless reduced to writing and signed by the authorized officers of each of the parties hereto, except to the extent this Agreement would authorize supplemental documents in conjunction with this Agreement, as described within Section 7 of this Agreement.
14. In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.
15. This Agreement shall become effective upon signature of approval of both parties and upon compliance of City with the provisions indicated within Section 5 of this Agreement, and shall continue in force and effect until terminated by either party as provided in Section 9 of this Agreement.
16. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

SEDGWICK COUNTY, KANSAS

CITY OF WICHITA

PETER F. MEITZNER, Chairman
Commissioner, First District

Brandon Whipple
Mayor

APPROVED AS TO FORM:

APPROVED AS TO FORM:

KIRK W. SPONSEL
Assistant County Counselor

JENNIFER MAGANA
City Attorney and Director of Law

ATTESTED TO:

ATTESTED TO:

KELLY B. ARNOLD
County Clerk

KAREN SUBLETT
City Clerk

RESOLUTION NO. 20-369

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA ALLOWING
ENFORCEMENT OF COUNTY RESOLUTION 154-2020 RELATED TO ORDERS OF
SEDGWICK COUNTY LOCAL HEALTH OFFICER

WHEREAS, securing the health, safety, and economic well- being of residents of the
City of Wichita is the priority of the City Council; and

WHEREAS, the United States Departments of Health and Human Services declared a
public health emergency for COVID -19 beginning January 27, 2020, and

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020;

WHEREAS, over the last several recent weeks there have been a significant spike in the
numbers of COVID -19 cases, hospitalizations, and deaths in Sedgwick County and across the
nation; and

WHEREAS, on November 10, 2020, the Sedgwick County Commission enacted
Resolution No. 154-2020, providing for enforcement of orders of the Sedgwick County Health
Officer related to infectious, contagious or communicable disease in unincorporated areas and
incorporated cities within Sedgwick County; and

WHEREAS, pursuant to the City's Home Rule and police powers to protect the health
and safety of its citizens, the City hereby adopts the following:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wichita
that:

1. The City of Wichita hereby consents to Sedgwick County Resolution 154-2020
applying and being effective within the corporate city limits of the City of Wichita;

2. The City of Wichita will enter into an agreement or Memorandum of Understanding as appropriate with Sedgwick County providing for enforcement of Resolution 154-2020.
3. The City of Wichita acknowledges that the authority and responsibility for the prosecution and enforcement of the Order of the Sedgwick County Local Health Officer resides with code enforcement officers employed by Sedgwick County.
4. Law enforcement officers and code enforcement officers employed by the City of Wichita are directed to provide assistance to Sedgwick County Code Enforcement officers to enforce the provisions of Sedgwick County Resolution 154-2020.
5. The City of Wichita reserves the right to rescind this Resolution and any agreement to enforce orders of the Sedgwick County Local Health Officer following 30 days written notice to the Sedgwick County Clerk.
6. This Resolution shall be effective upon publication of Sedgwick County Resolution 154-2020.
7. The Wichita City Clerk is hereby directed to publish this Resolution in the official newspaper of the City of Wichita.

Adopted by the City Council of the City of Wichita this 18th day of November 2020.

Brandon Whipple, Mayor

ATTEST:

Karen Sublett
City Clerk

APPROVED AS TO FORM:

Jennifer Magana, City Attorney

RESOLUTION NO. 15A-2020

DATE ADOPTED: 11/10/2020

DATE PUBLISHED: _____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS TO ESTABLISH THAT NONCOMPLIANCE WITH AN ORDER OF THE SEDGWICK COUNTY LOCAL HEALTH OFFICER IS A VIOLATION OF THE SEDGWICK COUNTY CODE

WHEREAS, pursuant to K.S.A. 19-101, *fourth*, the Board of County Commissioners has the power to do all acts in relation to the concerns of the County, necessary to the exercise of its corporate and administrative powers; and

WHEREAS, pursuant to K.S.A. 19-101, *fifth* and K.S.A. 19-101a, the Board of County Commissioners has the power to exercise the powers of home rule to determine local affairs and government, including performing all powers of local legislation and administration it deems appropriate; and

WHEREAS, pursuant to K.S.A. 19-101, *sixth*, the Board of County Commissioners has the power to exercise such other and further powers as may be especially conferred by law; and

WHEREAS, pursuant to K.S.A. 19-101c, the Kansas Legislature has stated that county home rule powers "shall be liberally construed for the purpose of giving to counties the largest measure of self-government"; and

WHEREAS, pursuant to K.S.A. 19-101d, the Board of County Commissioners has the power to enforce all resolutions passed pursuant to county home rule powers; and

WHEREAS, pursuant to K.S.A. 19-101d, such resolutions may be enforced by enjoining violations or prescribing penalties for violations by fine; and

WHEREAS, pursuant to K.S.A. 19-101d and K.S.A. 19-4701, *et seq.*, violations of Sedgwick County codes and resolutions may be prosecuted in the Sedgwick County Court and violations incur fines pursuant to Section 8-5 of the Sedgwick County Code; and

WHEREAS, pursuant to K.S.A. 65-202, the Sedgwick County Local Health Officer "shall use all known measures to prevent the spread of any...infectious, contagious or communicable disease..."; and

WHEREAS, the Board of County Commissioners desires to make any noncompliance with an order of the Sedgwick County Local Health Officer a violation of the Sedgwick County Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS THAT:

Section 1. Order of the Sedgwick County Local Health Officer.

The Sedgwick County Local Health Officer, appointed by the Board of County Commissioners pursuant to K.S.A. 65-201, is vested with the statutory authority to issue orders to prevent the spread of infectious, contagious, and communicable diseases. When the Sedgwick County Local Health Officer issues an order to prevent the spread of an infectious, contagious, or communicable disease, individuals, businesses, and organizations must comply with such order.

Section 2. Order of the Sedgwick County Local Health Officer, as Amended by the Board of County Commissioners.

In the event that an order issued by the Sedgwick County Local Health Officer, as described within Section 1 of this Resolution, has been amended by the Board of County Commissioners pursuant to K.S.A. 65-201 or K.S.A. 65-202, individuals, businesses, and organizations must comply with such amended order.

Section 3. Violation of an Order Issued by the Sedgwick County Local Health Officer; Penalty.

Failure of an individual, business, or organization to comply with an order issued by the Sedgwick County Local Health Officer to prevent the spread of an infectious, contagious, or communicable disease shall be a violation of this Resolution. Violations of this Section shall be classified as Class I offenses within Section 8-5 of the Sedgwick County Code.

Section 4. Violation of an Order Issued by the Sedgwick County Local Health Officer, as Amended by the Board of County Commissioners; Penalty.

Failure of an individual, business, or organization to comply with an order issued by the Sedgwick County Local Health Officer to prevent the spread of an infectious, contagious or communicable disease, as amended by the Board of County Commissioners pursuant to K.S.A. 65-201 or K.S.A. 65-202, shall be a violation of this Resolution. Violations of this Section shall be classified as Class I offenses within Section 8-5 of the Sedgwick County Code.

Section 5. Individuals Authorized to Enforce Resolution.

Any individual identified as a "code enforcement officer", as the term is defined within Section 1-2 of the Sedgwick County Code, shall be authorized to issue a uniform complaint and notice to appear for any individuals, businesses, or organizations accused of violating this Resolution.

Section 6. Jurisdiction.

This Resolution shall be effective within the unincorporated area of Sedgwick County. This Resolution shall also be effective within any cities within Sedgwick County whose governing bodies have consented to such Resolution applying within their city's city limits and that have entered into separate agreements with Sedgwick County providing for enforcement within their city limits.

Section 7. Effective Date.

This Resolution shall be effective upon its publication in the official county newspaper.

Commissioners present and voting were:

PETER F. MEITZNER
MICHAEL B. O'DONNELL, II
DAVID T. DENNIS
LACEY D. CRUSE
JAMES M. HOWELL

Aye
No
Aye
Aye
No

Dated this 10 day of November, 2020.

ATTEST:

Kelly B. Arnold
KELLY B. ARNOLD, County Clerk



BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

Peter F. Meitzner
PETER F. MEITZNER, Chairman
Commissioner, First District

Lacey D. Cruse
LACEY D. CRUSE, Chair Pro Tem
Commissioner, Fourth District

Michael B. O'Donnell, II
MICHAEL B. O'DONNELL, II
Commissioner, Second District

David T. Dennis
DAVID T. DENNIS
Commissioner, Third District

James M. Howell
JAMES M. HOWELL
Commissioner, Fifth District

APPROVED AS TO FORM:

Justin M. Waggoner
JUSTIN M. WAGGONER
Assistant County Counselor



*Sedgwick County...
working for you*

**EMERGENCY PUBLIC HEALTH ORDER OF THE
SEDGWICK COUNTY LOCAL HEALTH OFFICER
AMENDING AND REPLACING THE EMERGENCY
PUBLIC HEALTH ORDER ISSUED ON NOVEMBER 10, 2020**

November 13, 2020

Applicable within the entirety of Sedgwick County, Kansas

This Emergency Public Health Order is effective the 14th day of November, 2020, at 12:01 A.M. to slow the spread of COVID-19 in Sedgwick County, Kansas pursuant to the authority provided in K.S.A. 65-119, K.S.A. 65-202, and other applicable laws or regulations.

WHEREAS, the Local Health Officer is authorized and required, pursuant to K.S.A. 65-119 and K.S.A. 65-202, to immediately exercise and maintain a supervision over known or suspected cases of any infectious or contagious disease during its continuance, and to issue orders seeing that all such cases are properly handled; and

WHEREAS, the Local Health Officer is appointed by Sedgwick County pursuant to K.S.A. 65-201 and is authorized, pursuant to K.S.A. 65-119(a), to prohibit public gatherings when necessary for the control of any and all infectious or contagious diseases, and to use all known measures to prevent the spread of any infectious, contagious, or communicable disease pursuant to K.S.A. 65-202; and

WHEREAS, the United States Department of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 10,582,000 cases of the illness and more than 242,000 deaths as a result of the illness across the United States; and

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020; and

WHEREAS, a State of Disaster Emergency was proclaimed for the State of Kansas on March 12, 2020; and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 5121-5207 (the "Stafford Act")); and

WHEREAS, as of this date, in Kansas there have been 109,225 reported positive cases of COVID-19 spread among all 105 counties, including 1,215 deaths; and

WHEREAS, on March 16, 2020, the Chairman of the Board of County Commissioners of Sedgwick County issued a state of local disaster emergency declaration, which remains in place at the time of this Order; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, COVID-19 has resulted in 16,415 reported positive cases of COVID-19 in Sedgwick County and the deaths of 137 Sedgwick County residents; and

WHEREAS, the spread of COVID-19 endangers the health, safety, and welfare of persons and property within Sedgwick County, Kansas; and

WHEREAS, to reduce the spread of COVID-19, measures that are recommended and considered effective by the Centers for Disease Control and Prevention ("CDC") include, among other measures, avoiding close contact with other people and covering one's mouth and nose with a cloth face cover when in public settings; and

WHEREAS, the increased spread of COVID-19 also presents a serious threat to the continued effective operation of the local economy within Sedgwick County; and

WHEREAS, wearing a mask in public is one of the easiest and most effective ways to protect each other, help keep our businesses open and our economy running, and get and keep children in school; and

WHEREAS, in general, large public gatherings lead to heightened risks of large-scale COVID-19 person-to-person transmission; and

WHEREAS, the intent of this Order is not to deprive any person or entity of any rights protected by the United States Constitution, the Kansas Constitution, or any other law, but merely to set forth restrictions which would best protect Sedgwick County residents against the community spread of COVID-19; and

WHEREAS, there are certain activities where the wearing of masks and face coverings is exempted pursuant to the terms of this Order where customers may be in the proximity of others for extended periods of time (such as when customers may be eating, drinking, or exercising), which means such activities present a heightened risk of a person infected with COVID-19 transmitting it to another person; and

WHEREAS, both the number of positive cases and the percentage of individuals tested with positive test results within Sedgwick County have increased significantly in the past weeks; and

WHEREAS, the intensive care units at the largest hospitals within Sedgwick County are at full capacity; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the County's responsibility to provide for and ensure the health, safety, security, and welfare of the people of Sedgwick County, requiring that masks or other face coverings be worn in public, limiting the size of public gatherings, ensuring social distancing, and placing certain other restrictions on activities are all measures that can be taken to slow and reduce the spread of COVID-19.

NOW, THEREFORE, BE IT ORDERED by the Sedgwick County Local Health Officer, pursuant to the above authorities that:

Section I. Wearing of Masks or Other Face Coverings.

1. Individuals. Any person within Sedgwick County shall cover their mouths and noses with a mask or other face covering when they are in the following situations:
 - a. Present in any public space where distancing of 6 feet at all times is not possible (not including individuals who reside together);
 - b. In line and waiting to enter an indoor public space;
 - c. Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by an employee or healthcare provider; or
 - d. Riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle.
2. Businesses and Organizations. All businesses and organizations in Sedgwick County must both: (1) make reasonable efforts to inform members of the public as to applicable mask or other face covering requirements, and (2) require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering when:
 - a. Employees are working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
 - b. Employees who are working in any space where food is prepared or packaged for sale or distribution to others;
 - c. Customers, members, visitors, or members of the public are in a facility managed by the business or organization; or
 - d. Employees are in any room or enclosed area where other people (except individuals who reside together) are present and unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.

“Reasonable efforts” to inform members of the public, as described within Sec. I.1.(1) may include, but are not limited to, an individual or combined use of signs, greeters, intercoms, and directly addressing unmasked employees or customers. The type and degree of efforts is contingent upon a business’s or organization’s layout, capabilities, and the goods and services provided.

An exemption to the requirement to wear a mask or other face covering must be expressed to businesses and organizations by employees, customers, members, visitors, and members of the public as an affirmative exception to the requirement. The mere existence of possible exemptions to the mask orders in no way releases a business or organization from its duty to ensure individuals are complying with the aforementioned requirement to wear a mask or other face covering.

3. Exemptions. The following individuals are exempt from wearing masks or other face coverings in situations described in Paragraphs 1 and 2:
 - a. Persons age five years or under and, at the discretion of the school, children in kindergarten classes; children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - b. Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - c. Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication;
 - d. Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
 - e. Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - f. Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking;
 - g. Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity, and individuals who are participating in strenuous exercise that allows such individuals to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
 - h. Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;

- i. Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary;
 - j. Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law;
 - k. Persons who have one or more physical barrier(s) between them and any other persons; and
 - l. Voters at election polling places.
4. **Definitions.** As used within this Order, the following terms shall have the following meanings:
- a. "Mask or other face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or secured to the head by other means or devices or simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a mask or other face covering should have two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from the household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. The definition of "mask or other face covering" includes a face shield. The definition of "mask or other face covering" does not include a covering that is equipped with a one-way valve or vent through which air can be exhaled.
 - b. "Public space" means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors.
 - c. "Business or organization", whether the terms are used together or individually, within this Order means any person, firm, formal business type, or other entity, who solely or jointly and severally along with others, shall be in charge, care, and/or control of the business activity, structure, or premises. Any person can include any owner, manager, employee, or agent of the business or organization.

Section II. Social Distancing and Public Gatherings Provisions.

- 1. Individuals within a public space shall maintain 6 feet of social distancing from other individuals, unless such individuals reside together or an exception stated within Section II.3. of this Order applies.
- 2. Within a public space where a business or organization operates, such business or organization shall ensure that 6 feet of social distancing is maintained between individuals and groups of individuals, unless such individuals reside together or an exception stated within Section II.3. of this Order applies.
- 3. Exceptions to the 6 feet of social distancing requirements stated within Sections II.1. and II.2. shall include:

- a. Businesses and organizations that provide services that intrinsically require staff from the business or organization to be within less than 6 feet from the customer, such as dentists, hair salons, barber shops, nail salons, chiropractors, massage services, tattoo parlors, medical services providers, and similar services.
 - b. Businesses where tasks completed by employees require such employees to work within 6 feet of one another.
 - c. While seated at a restaurant, bar, night club, or other business licensed to sell alcohol for on-premises consumption, individuals at the same table may be located within 6 feet of one another. However, there shall not be more than 8 individuals at any such table. Also, all tables and individuals seated at a table shall be located at least 6 feet from any other tables and individuals seated at such tables.
 - d. Persons who have one or more physical barrier(s) between them and any other persons.
4. Mass gatherings within specific enclosed, confined, or designated public spaces, whether indoors or outdoors, shall be limited to 100 total individuals or 50 percent of the capacity permitted under the applicable fire code, whichever is less, and subject to the requirement within Section II.1. and Section II.2. of this Order that individuals must maintain 6 feet of social distance. In the absence of a capacity established under the applicable fire code, the mass gathering shall be limited to 100 total individuals, subject to individuals maintaining 6 feet of social distance pursuant to Section II.1. and Section II.2. of this Order. For purposes of defining mass gatherings, distinct buildings and distinct rooms shall be considered as distinct spaces. Any business or organization hosting or organizing a mass gathering shall be responsible for ensuring individuals' compliance with the mass gathering and social distancing requirements stated within this Order.

In addition to other gatherings and events that may fit within the definition of "mass gatherings", the term "mass gatherings" and all of the requirements within this Order that apply to mass gatherings shall also specifically apply to:

- a. Restaurants;
- b. Bars, night clubs, and other businesses licensed to sell alcohol for on-premises consumption; and
- c. Fitness centers and health clubs.

Due to the transitory nature of individuals within retail stores, their activities shall not be considered mass gatherings. However, retail stores shall be limited to 50 percent of the capacity permitted under the applicable fire code.

5. Outdoor and indoor entertainment venues with capacities in excess of 2,000 people may not host events unless the Local Health Officer has approved a written plan from the venue subsequent to the issuance of this Order.

6. The following are exempt from the mass gatherings limitations in Section II.4. of this Order, and are instead encouraged to maintain social distancing as much as is feasible and to maintain 6 feet of social distance between individuals who do not reside together, when feasible:
 - a. Religious institutions;
 - b. Election polling places;
 - c. Licensed childcare facilities;
 - d. Schools and activities within the purview of school's governing body; and
 - e. Court facilities.

Section III. Provisions Specific to Certain Activities.

1. Nail salons, barber shops, hair salons, tattoo parlors, dentists and other personal services businesses where 6 feet of social distancing is not feasible must only serve customers for pre-scheduled appointments or online check-in.
2. Fitness centers and health clubs must frequently clean common touchpoints, which include but are not limited to benches, seating, and lockers.
3. Fairs, festivals, carnivals, parades, and other similar events shall not occur.
4. All bars, night clubs, other businesses licensed to sell alcohol for on-premises consumption must abide by a curfew and close by 11:00 P.M., and remain closed until at least 5:00 A.M. or such later time that they may subsequently reopen pursuant to state or local law.
5. All restaurants must cease all in-person dining and abide by a curfew to close such in-person dining areas by 11:00 P.M., and remain closed until at least 5:00 A.M.
6. All recreational and youth organized sports tournaments, games, practices, and related events may still occur, but attendance shall be limited to a maximum of 2 attendees per participant and such activities shall remain subject to the social distancing and mass gathering provisions included within Section II of this Order. These provisions shall not apply to any collegiate sporting events and sporting events governed by Kansas State High School Activities Association and/or school boards.
7. If a business or organization has multiple distinct components that fit within different portions of this Order, each distinct component shall be required to fit the requirements of this Order that apply most specifically to such component of the business or organization.

Section IV. Lawful Order. This Order is a lawfully issued order pursuant to K.S.A. 65-202 and K.S.A. 65-119(a), and is also a "public health directive" as identified within

Section 9 of 2020 Special Session House Bill No. 2016. Individuals and organizations within Sedgwick County are required to comply with this Order.


Section V. Possible Review, Amendment, or Revocation. Pursuant to Sections 37 and 38 of 2020 Special Session House Bill No. 2016, which amended K.S.A. 65-201 and 65-202, the Board of County Commissioners may review, amend, or revoke this Order.

Section VI. Severability. If any portion of this Order is found or determined to be invalid, such finding or determination shall only affect the portion of the Order that is at issue and shall not affect the validity of the remainder of the Order.

Section VII. Effect on Prior Order. This Order amends and replaces the Emergency Public Health Order issued on November 10, 2020.

Section VIII. Effective Date; Conclusion. This Order is effective at 12:01 A.M. on the 14th day of November, 2020, and shall remain in effect through 11:59 P.M. on Thursday, the 31st day of December, 2020, unless it is amended, revoked, or replaced.

IT IS SO ORDERED THIS 13th day of November, 2020.



Garold Minns
Sedgwick County Local Health Officer, M.D.